

United States District Court

NORTHERN

DISTRICT OF

CALIFORNIA

UNITED STATES OF AMERICA

v.

Gabino VARGAS-Barragan

CRIMINAL COMPLAINT

RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

JAN 24 2008

08 70037 HRL

CASE NUMBER:

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On a date unknown but no later than, May 23, 2007, in Monterey County in the Northern District of California defendant(s)

Unlawfully re-entered and was found in the United States after deportation, without the permission of the Attorney General

in violation of Title 8 United States Code, Section(s) 1326
I further state that I am a(n) Deportation Officer and that this complaint is based on the following
facts:

SEE ATTACHED AFFIDAVIT

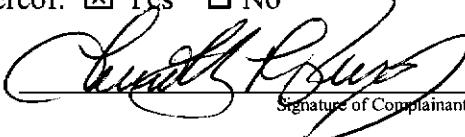
PENALTIES: \$250,000.00 fine, twenty years imprisonment and \$100.00 special assessment fee and a Term of Supervised Release up to three years.

Requested bail: Issue no bail warrant.

APPROVED AS TO FORM:


ASSISTANT UNITED STATES ATTORNEY

Continued on the attached sheet and made a part hereof: Yes No


Signature of Complainant

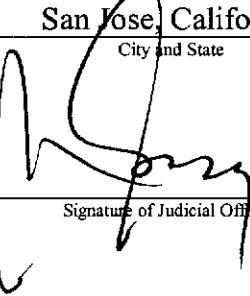
Sworn to before me and subscribed in my presence,

1/28/08
Date

at San Jose, California

City and State

Howard R. Lloyd
UNITED STATES MAGISTRATE JUDGE
Name & Title of Judicial Officer


Signature of Judicial Officer

RE: Gabino VARGAS-Barragan

A28 800 759

I, Timothy F. Purdy, am a Deportation Officer of the United States Department of Homeland Security, Immigration and Customs Enforcement (ICE). I have been employed by this agency, U.S. Customs & Border Protection and the former Immigration and Naturalization Service (INS), since October 1, 2002. I am currently assigned to the Criminal Alien Program at the San Jose, California Sub-Office. In such capacity, I have reviewed the official immigration "A-File" relating to the above named defendant, which attests to the following:

- (1) The DEFENDANT Gabino VARGAS-Barragan, is a 53-year-old married male, citizen and native of Michoacan, Mexico, born on February 25, 1954, as substantiated by multiple sworn statements made to that effect by the DEFENDANT on both February 20, 2004, at the West Valley Detention Center to Special Agent W. Chavez and more recently on May 23, 2007, at Soledad State Prison to Immigration Enforcement Agent David Picazo of the DRO/ICE Sub-Office in San Jose, CA;
- (2) The DEFENDANT has been assigned Alien Registration number of A28 800 759, FBI number of 065472W5, and California Criminal State ID Number of A07111225;
- (3) On April 28, 1988, the DEFENDANT was convicted in the Superior Court of California/County of San Bernardino, for the offense of: UNLAWFUL DRIVING OR TAKING OF A VEHICLE, a felony, in violation of California Vehicle Code Section 10851(A) and sentenced to eight days in jail;
- (4) On March 28, 1989, the DEFENDANT was convicted in the Superior Court of California/County of San Bernardino, for the offense of: POSSESSION OF MARIJUANA FOR SALE, a felony, in violation of California Health & Safety Code Section 11359 and sentenced to four years in jail. This offense is defined as an aggravated felony under Title 8, United States Code, Section 1101(a)(43)(B);
- (5) On October 28, 1993, the DEFENDANT was convicted in the Superior Court of California/County of San Bernardino, for the offense of: POSSESSION FOR SALE A CONTROLLED SUBSTANCE/METHAMPHETAMINE, a felony, in violation of California Health & Safety Code Section 11378 and sentenced to twelve years in jail. This offense is defined as an aggravated felony under Title 8, United States Code, Section 1101(a)(43)(B);
- (6) On September 28, 1999 the DEFENDANT was determined to be unlawfully present in the United States by the INS District Director San Diego, California and ordered deported from the United States to Mexico;

RE: Gabino VARGAS-Barragan

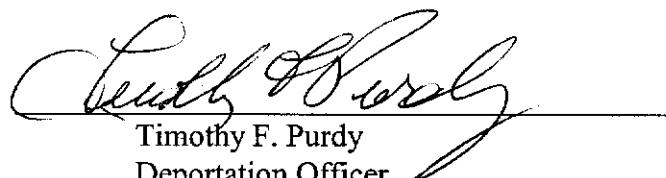
A28 800 759

- (7) On January 8, 2000, the DEFENDANT was determined to be unlawfully present in the United States by the INS District Director Los Angeles, California and ordered deported from the United States to Mexico;
- (8) On May 11, 2004, the DEFENDANT was convicted in the Superior Court of California/County of San Bernardino, for the offense of: POSSESSION FOR SALE A CONTROLLED SUBSTANCE/METHAMPHETAMINE, a felony, in violation of California Health & Safety Code Section 11378 and given a suspended sentence of five years in jail. This offense is defined as an aggravated felony under Title 8, United States Code, Section 1101(a)(43)(B);
- (9) On June 15, 2004, the DEFENDANT was determined to be unlawfully present in the United States by the DRO/ICE Field Office Director Los Angeles, California and ordered deported from the United States to Mexico;
- (10) On August 30, 2004, the DEFENDANT was determined to be unlawfully present in the United States by the DRO/ICE Field Office Director San Diego, California and ordered deported from the United States to Mexico;
- (11) On March 29, 2006, the DEFENDANT was convicted in the Superior Court of California/County of San Bernardino, for the offense of: VIOLATION OF PAROLE, a felony, in violation of California Penal Code Section 3056, and sentenced to three years in jail;
- (12) On, May 23, 2007, the DEFENDANT was encountered by IEA David Picazo, at the Soledad State Prison, and determined to be unlawfully present in the United States after a prior deportation. IEA David Picazo then advised the DEFENDANT his **Miranda** rights in the Spanish language. After the reading of his **Miranda** rights, the DEFENDANT provided a written statement admitting alienage;
- (13) On May 23, 2007, the DEFENDANT provided his right thumb and right index fingers with his sworn statement. A latent print examiner with the Santa Clara County Sheriff's Department conducted a comparison of those same fingerprints on the copies of the executed Warrants of Deportation and his existing fingerprints on file. The latent print examiner determined that the fingerprints were identical and were those of DEFENDANT Gabino VARGAS-Barragan;

RE: Gabino VARGAS-Barragan

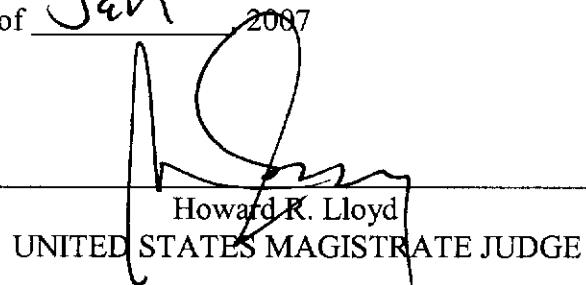
A28 800 759

- (14) The DEFENDANTS official A-File does not contain any record or indication that he either requested or received permission from the Secretary of the Department of Homeland Security or the Attorney General of the United States to reenter the United States;
- (15) Based on the above stated information, this Officer believes there is sufficient probable cause that the DEFENDANT is present within the United States in violation of Title 8, United States Code, Section 1326.



Timothy F. Purdy
Deportation Officer
Immigration and Customs Enforcement

Subscribed and sworn to before me this 24 day of Jan 2007



Howard R. Lloyd
UNITED STATES MAGISTRATE JUDGE